

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HOUSE BILL 2144

AN ACT

AMENDING SECTIONS 8-115, 8-514, 8-533, 8-800, 8-803 AND 8-804, ARIZONA REVISED STATUTES; REPEALING SECTION 8-809, ARIZONA REVISED STATUTES; AMENDING SECTIONS 8-817, 8-829 AND 8-862, ARIZONA REVISED STATUTES; RELATING TO DEPENDENT CHILDREN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-115, Arizona Revised Statutes, is amended to
3 read:

4 8-115. Hearing; procedure; record; evidence; contested case

5 A. The court shall hold a hearing on a petition filed pursuant to this
6 article in as informal a manner as the requirements of due process and
7 fairness permit. The prospective adoptive parent, the spouse of a
8 prospective adoptive parent and the child to be adopted shall attend unless
9 the court orders otherwise. The court shall only allow persons who have a
10 direct interest in the case to attend the hearing. A person who attends a
11 hearing shall not disclose any information about the hearing, **INCLUDING ANY**
12 **CHILD PROTECTIVE SERVICES WORKER ASSIGNED TO THE CHILD**. The court may
13 require the presence of such other witnesses as it deems necessary.

14 B. The court shall make its findings based on a preponderance of the
15 evidence. The court may consider any and all reports required by this
16 article or ordered by the court pursuant to this article.

17 **C. NOTWITHSTANDING ANY OTHER LAW, IF THE CHILD WHO IS THE SUBJECT OF**
18 **THE ADOPTION PETITION HAS BEEN IN OUT-OF-HOME PLACEMENT FOR AT LEAST FIFTEEN**
19 **CUMULATIVE MONTHS AND HAS BEEN LIVING WITH THE PROSPECTIVE ADOPTIVE PARENT OR**
20 **PARENTS FOR AT LEAST SIX CUMULATIVE MONTHS, THE COURT SHALL GRANT A PETITION**
21 **TO ADOPT EVEN IF THE CHILD'S PARENT HAS FILED AN APPEAL TO THE TERMINATION OF**
22 **THE PARENT-CHILD RELATIONSHIP IF THE COURT FINDS THAT IT SHOULD OTHERWISE**
23 **GRANT THE ADOPTION.**

24 Sec. 2. Section 8-514, Arizona Revised Statutes, is amended to read:

25 8-514. Placement in foster homes

26 A. Subject to the provisions of section 8-514.01, the division or a
27 licensed child welfare agency if so authorized in its license, ~~may~~ place a
28 child in a licensed foster home for care or for adoption. **NOTWITHSTANDING**
29 **ANY LAW TO THE CONTRARY, THE DIVISION OR A LICENSED CHILD WELFARE AGENCY MAY**
30 **PLACE A CHILD IN EXCESS OF THE NUMBER OF CHILDREN ALLOWED AND IDENTIFIED IN A**
31 **FOSTER PARENT'S LICENSE IF THE DIVISION OR AGENCY REASONABLY BELIEVES THE**
32 **FOSTER HOME HAS THE ABILITY TO SAFELY HANDLE ADDITIONAL CHILDREN AND IF THERE**
33 **ARE NO OUTSTANDING CONCERNS, DEFICIENCIES, REPORTS OR INVESTIGATIONS KNOWN BY**
34 **THE DIVISION REGARDING THE FOSTER HOME, AND IF THE CHILD MEETS ANY OF THE**
35 **FOLLOWING CRITERIA:**

36 1. **THE CHILD IS PART OF A SIBLING GROUP THAT CURRENTLY RESIDES IN THE**
37 **FOSTER HOME.**

38 2. **THE CHILD IS PART OF A SIBLING GROUP THAT IS BEING CONSIDERED FOR**
39 **PLACEMENT IN A FOSTER HOME BUT BECAUSE OF THE MAXIMUM CHILD LIMIT WOULD**
40 **OTHERWISE HAVE TO BE SEPARATED.**

41 3. **THE CHILD PREVIOUSLY RESIDED IN THE FOSTER HOME.**

42 4. **THE CHILD IS A KINSHIP PLACEMENT FOR THE FOSTER HOME.**

43 B. **WHEN A CHILD IS PLACED IN EXCESS OF THE NUMBER OF CHILDREN ALLOWED**
44 **AND IDENTIFIED IN THE FOSTER PARENT'S LICENSE PURSUANT TO SUBSECTION A OF**
45 **THIS SECTION, THE LICENSED CHILD WELFARE AGENCY SHALL SUBMIT TO THE DIVISION**

1 ON BEHALF OF A FOSTER PARENT AN APPLICATION FOR AMENDMENT OF THE LICENSE OR
2 AN APPLICATION FOR A GROUP FOSTER HOME LICENSE WITHIN FIVE CALENDAR DAYS
3 AFTER THE PLACEMENT. WITHIN TEN CALENDAR DAYS AFTER RECEIPT OF A COMPLETE
4 APPLICATION FOR LICENSE AMENDMENT OR NEW GROUP FOSTER HOME LICENSE, THE
5 DIVISION SHALL APPROVE OR DENY THE APPLICATION.

6 ~~B-~~ C. The department shall place a child in the least restrictive
7 type of placement available, consistent with the needs of the child. The
8 order for placement preference is as follows:

- 9 1. With a parent.
- 10 2. With a grandparent.
- 11 3. In kinship care with another member of the child's extended family,
12 including a person who has a significant relationship with the child.
- 13 4. In licensed family foster care.
- 14 5. In therapeutic foster care.
- 15 6. In a group home.
- 16 7. In a residential treatment facility.

17 ~~C-~~ D. Notwithstanding subsection ~~B- C~~ of this section, the order for
18 placement preference of a native American child is as follows:

- 19 1. With a member of the child's extended family.
- 20 2. In a licensed family foster home approved or specified by the
21 child's tribe.
- 22 3. In an Indian foster home licensed or approved by an authorized
23 non-Indian licensing authority.
- 24 4. In an institution approved by the Indian tribe or operated by an
25 Indian organization that has a program suitable to meet the Indian child's
26 needs pursuant to 25 United States Code chapter 21.

27 ~~D-~~ E. At the time of placement there shall be presented to the foster
28 parents, by the agency or division placing the child, a written summary of
29 known, unprivileged, ~~information~~ information regarding the child, including ~~but not~~
30 ~~limited to~~ AT A MINIMUM:

- 31 1. Demographic information.
- 32 2. Type of custody and previous placement.
- 33 3. Pertinent family information including but not limited to the names
34 of family members who, by court order, may not visit the child.
- 35 4. Known or available medical history including but not limited to:
 - 36 (a) Allergies.
 - 37 (b) Immunizations.
 - 38 (c) Childhood diseases.
 - 39 (d) Physical handicaps.
 - 40 (e) Other idiosyncrasies.
 - 41 (f) The child's last doctor, if known.
- 42 5. A summary of the child's history of adjudication on acts of
43 delinquency, as may be public record and available in the file of the clerk
44 of the superior court.

1 ~~E.~~ F. The responsibility of the agency or the division for a child
2 placed in a foster home shall be defined in writing and accepted by the
3 person receiving the child. The agency or division shall make available to
4 the foster parents a method of acquiring emergency information that may be
5 necessary to deal with situations that may arise pursuant to their
6 responsibilities as foster parents.

7 ~~F.~~ G. Every foster home shall maintain a record of the children
8 received, which shall include facts in regard to the children and their care
9 and shall be in the form and kept in the manner prescribed by the division.

10 Sec. 3. Section 8-533, Arizona Revised Statutes, is amended to read:

11 8-533. Petition; who may file; grounds

12 A. Any person or agency that has a legitimate interest in the welfare
13 of a child, including, but not limited to, a relative, a foster parent, a
14 physician, the department of economic security or a private licensed child
15 welfare agency, may file a petition for the termination of the parent-child
16 relationship alleging grounds contained in subsection B of this section.

17 B. Evidence sufficient to justify the termination of the parent-child
18 relationship shall include any one of the following, and in considering any
19 of the following grounds, the court shall also consider the best interests of
20 the child:

21 1. That the parent has abandoned the child.

22 2. That the parent has neglected or wilfully abused a child. This
23 abuse includes serious physical or emotional injury or situations in which
24 the parent knew or reasonably should have known that a person was abusing or
25 neglecting a child.

26 3. That the parent is unable to discharge parental responsibilities
27 because of mental illness, mental deficiency or a history of chronic abuse of
28 dangerous drugs, controlled substances or alcohol and there are reasonable
29 grounds to believe that the condition will continue for a prolonged
30 indeterminate period.

31 4. That the parent is deprived of civil liberties due to the
32 conviction of a felony if the felony of which that parent was convicted is of
33 such nature as to prove the unfitness of that parent to have future custody
34 and control of the child, including murder of another child of the parent,
35 manslaughter of another child of the parent or aiding or abetting or
36 attempting, conspiring or soliciting to commit murder or manslaughter of
37 another child of the parent, or if the sentence of that parent is of such
38 length that the child will be deprived of a normal home for a period of
39 years.

40 5. That the potential father failed to file a paternity action within
41 thirty days of completion of service of notice as prescribed in section
42 8-106, subsection G.

43 6. That the putative father failed to file a notice of claim of
44 paternity as prescribed in section 8-106.01.

1 7. That the parents have relinquished their rights to a child to an
2 agency or have consented to the adoption.

3 8. That the child is being cared for in an out-of-home placement under
4 the supervision of the juvenile court, the division or a licensed child
5 welfare agency, that the agency responsible for the care of the child has
6 made a diligent effort to provide appropriate reunification services and that
7 one of the following circumstances exists:

8 (a) The child has been in an out-of-home placement for a cumulative
9 total period of nine months or longer pursuant to court order or voluntary
10 placement pursuant to section 8-806 and the parent has substantially
11 neglected or wilfully refused to remedy the circumstances that cause the
12 child to be in an out-of-home placement.

13 (b) The child ~~who is~~ WAS under ~~three~~ FIVE years of age AT THE TIME THE
14 DEPENDENCY PETITION WAS FILED AND has been in an out-of-home placement for a
15 cumulative total period of six months or longer pursuant to court order and
16 the parent has substantially neglected or wilfully refused to remedy the
17 circumstances that cause the child to be in an out-of-home placement,
18 including refusal to participate in reunification services offered by the
19 department. THE COURT MAY APPLY THE PROVISIONS OF THIS SUBDIVISION TO A
20 CHILD WHO IS FIVE YEARS OF AGE OR OLDER, IS REMOVED FROM THE HOME AND IS A
21 SIBLING OF A CHILD WHO IS SUBJECT TO THIS SUBDIVISION IF THE COURT FINDS IT
22 IS IN THE BEST INTERESTS OF THE SIBLING.

23 (c) The child has been in an out-of-home placement for a cumulative
24 total period of fifteen months or longer pursuant to court order or voluntary
25 placement pursuant to section 8-806, the parent has been unable to remedy the
26 circumstances that cause the child to be in an out-of-home placement and
27 there is a substantial likelihood that the parent will not be capable of
28 exercising proper and effective parental care and control in the near future.

29 9. That the identity of the parent is unknown and continues to be
30 unknown following three months of diligent efforts to identify and locate the
31 parent.

32 10. That the parent has had parental rights to another child terminated
33 within the preceding two years for the same cause and is currently unable to
34 discharge parental responsibilities due to the same cause.

35 11. That all of the following are true:

36 (a) The child was cared for in an out-of-home placement pursuant to
37 court order.

38 (b) The agency responsible for the care of the child made diligent
39 efforts to provide appropriate reunification services.

40 (c) The child, pursuant to court order, was returned to the legal
41 custody of the parent from whom the child had been removed.

42 (d) Within eighteen months after the child was returned, pursuant to
43 court order, the child was removed from that parent's legal custody, the
44 child is being cared for in an out-of-home placement under the supervision of

1 the juvenile court, the division or a licensed child welfare agency and the
2 parent is currently unable to discharge parental responsibilities.

3 C. Evidence considered by the court pursuant to subsection B of this
4 section shall include any substantiated allegations of abuse or neglect
5 committed in another jurisdiction.

6 D. In considering the grounds for termination prescribed in subsection
7 B, paragraph 8 or 11 of this section, the court shall consider the
8 availability of reunification services to the parent and the participation of
9 the parent in these services.

10 E. In considering the grounds for termination prescribed in subsection
11 B, paragraph 8 of this section, the court shall not consider the first sixty
12 days of the initial out-of-home placement pursuant to section 8-806 in the
13 cumulative total period.

14 F. The failure of an alleged parent who is not the child's legal
15 parent to take a test requested by the department or ordered by the court to
16 determine if the person is the child's natural parent is prima facie evidence
17 of abandonment unless good cause is shown by the alleged parent for that
18 failure.

19 Sec. 4. Section 8-800, Arizona Revised Statutes, is amended to read:

20 8-800. Purpose of child protective services

21 The primary ~~purposes~~ PURPOSE of child protective services ~~are IS~~ to
22 protect children ~~by investigating allegations of abuse and neglect, promoting~~
23 ~~the well-being of the child in a permanent home and coordinating services to~~
24 ~~strengthen the family and prevent, intervene in and treat abuse and neglect~~
25 ~~of children.~~ TO ACHIEVE THIS PURPOSE, CHILD PROTECTIVE SERVICES SHALL DO THE
26 FOLLOWING IN EQUAL PRIORITY:

27 1. INVESTIGATE REPORTS OF CHILD ABUSE AND NEGLECT.

28 2. ASSESS, PROMOTE AND SUPPORT THE SAFETY OF A CHILD IN A SAFE AND
29 STABLE FAMILY OR OTHER APPROPRIATE PLACEMENT.

30 3. WORK COOPERATIVELY WITH LAW ENFORCEMENT AND THE OFFICE OF CHILD
31 WELFARE INVESTIGATIONS REGARDING REPORTS THAT INCLUDE CRIMINAL CONDUCT
32 ALLEGATIONS.

33 4. WITHOUT COMPROMISING CHILD SAFETY, COORDINATE SERVICES TO ACHIEVE
34 PERMANENCY ON BEHALF OF THE CHILD, STRENGTHEN THE FAMILY AND PROVIDE
35 PREVENTION, INTERVENTION AND TREATMENT FOR ABUSED AND NEGLECTED CHILDREN.

36 Sec. 5. Section 8-803, Arizona Revised Statutes, is amended to read:

37 8-803. Limitation of authority; duty to inform

38 A. On initial contact with a parent, guardian or custodian under
39 investigation pursuant to this article, a child protective services worker
40 shall inform the family, both verbally and in writing, making reasonable
41 efforts to receive written acknowledgement from the parent, guardian, or
42 custodian, of receipt of all of the following information:

43 1. That the family is under investigation by the department.

44 2. The specific complaint or allegation made against that person.

1 3. That the worker has no legal authority to compel the family to
2 cooperate with the investigation or to receive protective services offered
3 pursuant to the investigation.

4 4. The worker's authority to petition the juvenile court for a
5 determination that a child is dependent.

6 ~~5. The person's right to participate in a mediation program in the~~
7 ~~attorney general's office. The worker shall provide the telephone number of~~
8 ~~the attorney general's office mediation program.~~

9 ~~6.~~ 5. The person's right to file a complaint with the ~~ombudsman-~~
10 ~~citizen~~ OMBUDSMAN-CITIZENS aide pursuant to section 41-1376. The worker
11 shall provide the telephone number of the ~~ombudsman-citizen~~
12 OMBUDSMAN-CITIZENS aide.

13 ~~7.~~ 6. The person's right to appeal determinations made PURSUANT TO
14 SECTION 8-811 ~~by child protective services.~~

15 ~~8.~~ 7. Information outlining parental rights under the laws of the
16 state.

17 B. The child protective services worker shall also inform the person
18 about whom the report was made about that person's right to respond to the
19 allegations either verbally or in writing, including any documentation, and
20 to have this information considered in determining if the child is in need of
21 protective services. The worker shall tell the person that anything the
22 person says or writes can be used in a court proceeding. If the person makes
23 a verbal response, the worker shall include the response in the written
24 report of the investigation. If the person makes a written response,
25 including any documentation, the worker shall include this response and the
26 documentation in the case file. Information provided in response to the
27 allegations shall be considered during the investigation by the worker. The
28 worker shall maintain the response and documentation in the case file and
29 provide this information to the court before a hearing or trial relating to
30 the dependency petition.

31 C. If the family declines to cooperate with the investigation or to
32 accept or to participate in the offered services, or if the worker otherwise
33 believes that the child should be adjudicated dependent, the worker may file
34 with the juvenile court a petition requesting that the child in need of
35 protective services be adjudicated dependent.

36 D. Refusal to cooperate in the investigation or to participate in the
37 offered services does not constitute grounds for temporary custody of a child
38 except if there is a clear necessity for temporary custody as provided in
39 section 8-821.

40 Sec. 6. Section 8-804, Arizona Revised Statutes, is amended to read:
41 8-804. Central registry; notification

42 A. The department of economic security shall maintain a central
43 registry of reports of child abuse and neglect that are substantiated and the
44 outcome of the investigation of these reports made under this article. A
45 finding made by a court pursuant to section 8-844, subsection C that a child

1 is dependent based on an allegation of abuse or neglect shall be recorded as
2 a substantiated finding of abuse or neglect. The department shall
3 incorporate duplicate reports on the same incident in the original report and
4 shall not classify duplicate reports as new reports.

5 B. The department shall conduct central registry background checks and
6 shall use the information contained in the central registry only for the
7 following purposes:

8 1. As a factor to determine qualifications for foster home licensing,
9 adoptive parent certification, child care home certification, registration of
10 unregulated child care homes with the child care resource and referral
11 system, and home and community based services certification for services to
12 children or vulnerable adults.

13 2. As a factor to determine qualifications for persons who are
14 employed or who are applying for employment with this state in positions that
15 provide direct service to children or vulnerable adults.

16 3. As a factor to determine qualifications for positions that provide
17 direct service to children or vulnerable adults for:

18 (a) Any person who applies for a contract with this state and that
19 person's employees.

20 (b) All employees of a contractor.

21 (c) A subcontractor of a contractor and the subcontractor's employees.

22 (d) Prospective employees of the contractor or subcontractor at the
23 request of the prospective employer.

24 4. Beginning August 1, 2013, to provide information, using the
25 department of economic security's contracting requirements, to licensees that
26 do not contract with this state regarding persons who are employed or seeking
27 employment to provide direct services to children pursuant to title 36,
28 chapter 7.1.

29 5. To identify and review reports concerning individual children and
30 families, in order to facilitate the assessment of safety and risk.

31 6. To determine the nature and scope of child abuse and neglect in
32 this state and to provide statewide statistical and demographic information
33 concerning trends in child abuse and neglect.

34 7. To allow comparisons of this state's statistical data with national
35 data.

36 8. To comply with section 8-804.01, subsection B.

37 C. Beginning August 1, 2013, licensees that do not contract with the
38 state and that employ persons who provide direct services to children
39 pursuant to title 36, chapter 7.1 must submit to the department of economic
40 security in a manner prescribed by the department of economic security
41 information necessary to conduct central registry background checks. The
42 department of health services shall verify whether licensees, pursuant to
43 title 36, chapter 7.1, have complied with the requirements of this subsection
44 and any rules adopted by the department of health services to implement this
45 subsection.

1 D. If the department received a report before September 1, 1999 and
2 determined that the report was substantiated, the department shall maintain
3 the report in the central registry until eighteen years from the child
4 victim's date of birth.

5 E. If the department received a report on or after September 1, 1999
6 and determined that the report was substantiated, the department shall
7 maintain the report in the central registry for NOT MORE THAN twenty-five
8 years after the date of the report. IF THE DEPARTMENT MAINTAINS REPORTS ON
9 THE CENTRAL REGISTRY FOR LESS THAN TWENTY-FIVE YEARS, THE DEPARTMENT SHALL
10 ADOPT RULES TO DESIGNATE THE LENGTH OF TIME IT MUST MAINTAIN THOSE REPORTS ON
11 THE CENTRAL REGISTRY.

12 F. The department shall annually purge reports and investigative
13 outcomes received pursuant to the time frames prescribed in subsections D and
14 E of this section.

15 G. Any person who was the subject of a child protective services
16 investigation may request confirmation that the department has purged
17 information about the person pursuant to subsection F of this section. On
18 receipt of this request, the department shall provide the person with written
19 confirmation that the department has no record containing identifying
20 information about that person.

21 H. The department of economic security shall notify a person,
22 contractor or licensee identified in subsection B, paragraph 3, subdivisions
23 (a), (b) and (c) and subsection B, paragraph 4 of this section who is
24 disqualified because of a central registry check conducted pursuant to
25 subsection B of this section that the person may apply to the board of
26 fingerprinting for a central registry exception pursuant to section
27 41-619.57.

28 I. Before being employed in a position that provides direct services
29 to children or vulnerable adults pursuant to subsection B, paragraph 3 or
30 subsection C of this section, employees shall certify on forms that are
31 provided by the department of economic security whether an allegation of
32 abuse or neglect was made against them and was substantiated. The forms are
33 confidential.

34 J. A person who is granted a central registry exception pursuant to
35 section 41-619.57 is not entitled to a contract, employment, licensure,
36 certification or other benefit because the person has been granted a central
37 registry exception.

38 Sec. 7. Repeal

39 Section 8-809, Arizona Revised Statutes, is repealed.

40 Sec. 8. Section 8-817, Arizona Revised Statutes, is amended to read:
41 8-817. Initial screening and safety assessment and
42 investigation protocols

43 A. The department shall develop, establish and implement initial
44 screening and safety assessment protocols in consultation with the attorney
45 general and statewide with county attorneys, chiefs of police, sheriffs,

1 medical experts, victims' rights advocates, domestic violence victim
2 advocates and mandatory reporters. Any initial screening and safety
3 assessment tools shall be based on sound methodology and shall ensure valid
4 and reliable responses. The department shall establish written policies and
5 procedures to implement the use of the initial screening and safety
6 assessment protocols.

7 B. To ensure thorough investigations of those accused of crimes
8 against children, in each county, the county attorney, in cooperation with
9 the sheriff, the chief law enforcement officer for each municipality in the
10 county and the department shall develop, adopt and implement protocols to
11 guide the conduct of investigations of allegations involving criminal
12 conduct. The protocols shall include:

13 1. The process for notification of receipt of criminal conduct
14 allegations.

15 2. The standards for interdisciplinary investigations of specific
16 types of abuse and neglect, including timely forensic medical evaluations.

17 3. The standards for interdisciplinary investigations involving native
18 American children in compliance with the Indian child welfare act.

19 4. Procedures for sharing information and standards for the timely
20 disclosure of information.

21 5. Procedures for coordination of screening, response and
22 investigation with other involved professional disciplines and notification
23 of case status and standards for the timely disclosure of related
24 information.

25 6. The training required for the involved child protective services
26 workers, law enforcement officers and prosecutors to execute the
27 investigation protocols, including forensic interviewing skills.

28 7. The process to ensure review of and compliance with the
29 investigation protocols and the reporting of activity under the protocols.

30 8. Procedures for annual reports to be transmitted within forty-five
31 days after the end of each fiscal year independently from child protective
32 services and each county attorney to the governor, the speaker of the house
33 of representatives, ~~and~~ the president of the senate, **THE CHAIRPERSONS AND**
34 **MEMBERS OF THE SENATE AND HOUSE OF REPRESENTATIVES COMMITTEES ON HUMAN**
35 **SERVICES, OR THEIR SUCCESSOR COMMITTEES, AND THE ATTORNEY GENERAL** and a copy
36 of ~~this report~~ **THESE REPORTS** to be provided to the secretary of state. Each
37 agency must submit a separate report. Each report made pursuant to this
38 paragraph must be independently prepared and submitted without any input from
39 or communication with the other reporting entities. Each report is a public
40 document and shall include:

41 (a) The number of criminal conduct allegations investigated and how
42 many of these investigations were conducted jointly pursuant to the
43 investigation protocols established in this subsection.

1 (b) Information from each county attorney regarding the number of
2 cases presented for review, the number of persons charged in those cases, the
3 reasons why charges were not pursued and the disposition of these cases.

4 (c) The reasons why a joint investigation did not take place.

5 9. Procedures for dispute resolution.

6 C. The department shall cooperate with the county attorney and the
7 appropriate law enforcement agency pursuant to the investigation protocols
8 adopted in this section. In instances of criminal conduct against a child,
9 the department shall protect the victim's rights of the children in its
10 custody against harassment, intimidation and abuse, as applicable, pursuant
11 to article II, section 2.1, Constitution of Arizona.

12 D. The county attorney and the law enforcement agency shall cooperate
13 with the department pursuant to the investigation protocols adopted in this
14 section.

15 Sec. 9. Section 8-829, Arizona Revised Statutes, is amended to read:

16 8-829. Judicial determinations; timing; documentation

17 A. If a child has been removed from the child's home, the court shall
18 make protecting the child from abuse or neglect the first priority and shall
19 make the following determinations within the following time periods:

20 1. In the court's first order that sanctions the removal, whether
21 continuation of the child's residence in the home would be contrary to the
22 welfare of the child. This order may be the temporary order that the court
23 issues on the filing of a dependency petition.

24 2. At the preliminary protective hearing, whether the department made
25 attempts to identify and assess placement with the child's grandparent or
26 another member of the child's extended family including a person who has a
27 significant relationship with the child.

28 3. Within sixty days after the child is removed from the child's home,
29 whether reasonable efforts have been made to prevent removal of the child or
30 whether it was reasonable to make no efforts to prevent removal of the child.

31 4. If the child is not placed with a grandparent or another member of
32 the child's extended family including a person who has a significant
33 relationship with the child within sixty days after the child is removed from
34 the child's home, why such placement is not in the best interests of the
35 child. The petitioner has the burden of presenting evidence that such
36 placement is not in the child's best interests at the first court hearing
37 thereafter.

38 5. Within twelve months after the child is removed from the child's
39 home and once every twelve months thereafter, whether reasonable efforts have
40 been made to finalize the existing permanency plan.

41 6. If the child ~~is~~ WAS under ~~three~~ FIVE years of age AT THE TIME THE
42 DEPENDENCY PETITION WAS FILED, within six months after the child is removed
43 from the child's home, whether reasonable efforts have been made to provide
44 reunification services to the parent and whether a parent of a child who is
45 under ~~three~~ FIVE years of age has substantially neglected or wilfully refused

1 to participate in reunification services offered by the department. THE
2 COURT MAY APPLY THE PROVISIONS OF THIS PARAGRAPH TO A CHILD WHO IS FIVE YEARS
3 OF AGE OR OLDER, IS REMOVED FROM THE HOME AND IS A SIBLING OF A CHILD WHO IS
4 SUBJECT TO THIS PARAGRAPH IF THE COURT FINDS IT IS IN THE BEST INTERESTS OF
5 THE SIBLING.

6 B. The court shall make each determination described in subsection A
7 on a case-by-case basis and shall set forth in its written order the specific
8 factual basis for each determination. In making its determination, the court
9 shall consider documentation that is reasonably available at the time of the
10 determination.

11 Sec. 10. Section 8-862, Arizona Revised Statutes, is amended to read:
12 8-862. Permanency hearing

13 A. The court shall hold a permanency hearing to determine the future
14 permanent legal status of the child:

15 1. Within thirty days after the disposition hearing if the court does
16 not order reunification services.

17 2. Within six months after a child who ~~is~~ WAS under ~~three~~ FIVE years
18 of age AT THE TIME THE DEPENDENCY PETITION WAS FILED is removed from the
19 child's home. The court shall not continue that permanency hearing beyond
20 six months after the child who ~~is~~ WAS under ~~three~~ FIVE years of age AT THE
21 TIME THE DEPENDENCY PETITION WAS FILED is removed from the child's home
22 unless the party who is seeking the continuance shows that the determination
23 prescribed in section 8-829, subsection A, paragraph 6 has been made or will
24 be made within the time prescribed in that paragraph. THE COURT MAY APPLY
25 THE PROVISIONS OF THIS PARAGRAPH TO A CHILD WHO IS FIVE YEARS OF AGE OR
26 OLDER, IS REMOVED FROM THE HOME AND IS A SIBLING OF A CHILD WHO IS SUBJECT TO
27 THIS PARAGRAPH IF THE COURT FINDS IT IS IN THE BEST INTERESTS OF THE SIBLING.

28 3. In all other cases, within twelve months after the child is removed
29 from the child's home. The court shall not continue the permanency hearing
30 beyond twelve months after the child is removed from the child's home unless
31 the party who is seeking the continuance shows that the determination
32 prescribed in section 8-829, subsection A, paragraph 5 has been made or will
33 be made within the time prescribed in that paragraph.

34 B. At the permanency hearing, the court shall determine:

35 1. Whether termination of parental rights, adoption, permanent
36 guardianship pursuant to section 8-872 or some other permanent legal status
37 is the most appropriate plan for the child and shall order the plan to be
38 accomplished within a specified period of time.

39 2. Whether reasonable efforts have been made to finalize the
40 permanency plan in effect.

41 3. What efforts have been made in the permanency plan to place the
42 child with the child's siblings or to provide frequent visitation or contact,
43 unless the court had already determined that placement with all or any
44 siblings or visitation or contact is not possible or would be contrary to the
45 child's or a sibling's safety or well-being.

1 C. If the court determines that the child should remain in out-of-home
2 placement longer than eighteen months from the date of the permanency order,
3 the court shall conduct a review of the order at least once each year. After
4 reviewing the order, the court may reaffirm the order or direct other
5 disposition of the child.

6 D. If the court determines that the termination of parental rights is
7 clearly in the best interests of the child, the court shall:

8 1. Order the department or the child's attorney or guardian ad litem
9 to file within ten days after the permanency hearing a motion alleging one or
10 more of the grounds prescribed in section 8-533 for termination of parental
11 rights. The party who files the motion has the burden of presenting evidence
12 at the termination hearing to prove the allegations in the motion.

13 2. Set a date for an initial hearing on the motion for termination of
14 parental rights within thirty days after the permanency hearing. If the
15 termination is contested at the initial hearing, the court shall set a date
16 for the trial on termination of parental rights within ninety days after the
17 permanency hearing.

18 E. The department shall make reasonable efforts to place the child in
19 a timely manner in accordance with the permanency plan and to complete
20 whatever steps are necessary to finalize the permanent placement of the
21 child.

22 F. If the court determines that permanent guardianship is clearly in
23 the best interests of the child, the court shall:

24 1. Order the department or the child's attorney or guardian ad litem
25 to file within ten days after the permanency hearing a motion alleging the
26 grounds prescribed in section 8-871 for permanent guardianship. The party
27 who files the motion has the burden of presenting evidence at the hearing to
28 prove the allegations in the motion.

29 2. Set a date for an initial hearing on the motion for permanent
30 guardianship within thirty days after the permanency hearing. If the
31 permanent guardianship is contested at the initial hearing, the court shall
32 set a date for the trial on the permanent guardianship within ninety days
33 after the permanency hearing.

34 G. Evidence considered by the court in making a decision pursuant to
35 this section also shall include any substantiated allegations of abuse or
36 neglect committed in another jurisdiction.

37 H. If the court determines that termination of parental rights or
38 permanent guardianship is clearly in the best interest of the child and the
39 child has been placed in a prospective permanent placement, unless the action
40 is required by federal law, state law or regulation, any action that is
41 inconsistent with the case plan of severance and adoption, including removal
42 of the child from that placement, may occur only by court order or if the
43 prospective permanent placement requests the child's removal. If a motion to
44 change the case plan or for removal of a child is filed, a copy of the motion
45 must be provided to the prospective permanent placement at least fifteen days

1 before a hearing on the motion. If the prospective permanent placement does
2 not appear at a hearing on a motion for removal, the court may not take any
3 action on the motion unless the court finds that good faith efforts were made
4 to provide a copy of the motion to the prospective permanent placement. The
5 prospective permanent placement has the right to be heard in the proceeding.
6 This right does not require that the prospective permanent placement be made
7 a party to the proceeding solely on the basis of that right. This subsection
8 does not apply to any removal pursuant to section 8-802 or 8-821. If the
9 child is an Indian child as defined pursuant to the Indian child welfare act
10 (25 United States Code section 1903), the court and the parties must comply
11 with all applicable requirements of that act. For the purposes of this
12 subsection, a prospective permanent placement includes:

13 1. A grandparent or another member of the child's extended family
14 including a person who has a significant relationship with the child.

15 2. A person or persons with an expressed interest in being the
16 permanent placement for the child in a certified adoptive home where the
17 child resides, a home that is a permanent placement for a sibling of the
18 child or a licensed family foster home where the child resides.

19 I. This section does not prevent the department from presenting for
20 the court's consideration a grandparent or another member of the child's
21 extended family including a person who has a significant relationship with
22 the child and who has not been identified as a prospective permanent
23 placement for the child before the child's placement with a prospective
24 permanent placement.

25 Sec. 11. Triage system plan for reports of child abuse and
26 neglect

27 A. On or before December 31, 2013, pursuant to section 8-802, Arizona
28 Revised Statutes, the department of economic security shall develop a program
29 plan with implementation timelines and funding needs and opportunities that
30 provide alternative response mechanisms in responding to reports of child
31 abuse and neglect, including programs of collaborative partnerships between
32 the department, community social service agencies and family support
33 programs, law enforcement agencies, developmental disability agencies,
34 substance abuse treatment entities, health care entities, domestic violence
35 prevention entities, mental health service entities, schools, faith-based
36 organizations and other community agencies to allow for the establishment of
37 a triage system that:

38 1. Accepts, screens, and assesses reports received to determine which
39 such reports require an intensive intervention and which allow for referral
40 to another agency, program or project.

41 2. Provides, either directly or through referral, a variety of
42 community linked services to assist families in preventing child abuse and
43 neglect.

44 3. Provides further investigation and intensive intervention when the
45 child's safety is in jeopardy.

1 B. The funding needs and opportunities to be addressed in the plan
2 shall include the opportunity to submit a title IV-E waiver request as
3 authorized by section 1130 of the social security act to the United States
4 department of health and human services.
5 C. On or before December 31, 2013, the department shall submit a
6 report of its findings and recommendations to the governor, the president of
7 the senate, the speaker of the house of representatives, the child protective
8 services oversight committee, the standing committee chairs of the house and
9 senate human services committees and provide a copy of the report to the
10 secretary of state.